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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,801	11/16/2001	Kimberly Miller McLoughlin	DDB000894-000	5619

7590

09/25/2002

Robert A. Koons, Jr.  
BUCHANAN INGERSOLL P.C.  
Eleven Penn Center 14th flr.  
Nineteenth and Markets Streets  
Philadelphia, PA 19103-2985

EXAMINER

TOOMER, CEPHIA D

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 09/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/991,801

Applicant(s)

MCLOUGHLIN ET AL.

Examiner

Cephia D. Toomer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: .

## DETAILED ACTION

### *Specification*

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 is rejected because it depends on itself for support.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orloff (US 3,115,463)

Orloff teaches stabilized lubricants containing hydrocarbon oil, 0.001-0.2 % dialkyl hydrogen phosphite (dimethyl hydrogen phosphite) and 0.01-3 % phenolic compounds (see col. 1, lines 39-60; col. 2, lines 50-53; col. 3, lines 42-45).

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Orloff teaches the limitations of the claims other than that the composition is a stabilization system for improving the melt viscosity of polypropylene during fiber processing. However, no patentable weight is given to claims that are directed to the composition per se.

6. Claims 1, 2, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen (US 4,652,385).

Cohen teaches a lubricating oil composition comprising a trisubstituted phosphite and a sterically hindered phenolic compound (see abstract). The phenolic compound is a cinnamate derivative and the phosphite may be tris(2,4-di-tert-butylphenyl)phosphite. The ratio of phenol to phosphite is from 1:6 to 1:2 (see col. 3, lines 1-6; col. 4, lines 1-10).

Cohen teaches the limitations of the claims other than that the composition is a stabilization system for improving the melt viscosity of polypropylene during fiber processing. However, no patentable weight is given to claims that are directed to the composition per se.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calabrese et al (US 6,348, 514 or WO99/16821).

Calabrese teaches a composition comprising mineral oil, 0.01-5 % of octadecyl-3,5-di-tert-butyl-4-hydroxy hydrocinnamate and tris(nonylphenyl)phosphite or tris(2,4-di-tert-butylphenyl)phosphite as stabilizers (col. 2, lines 49-67; col. 3, lines 1-7, 29-38, 43, 58-59; col. 2, lines 33-39).

Calabrese teaches the limitations of the claims other than that the composition is a stabilization system for improving the melt viscosity of polypropylene during fiber processing. However, no patentable weight is given to claims that are directed to the composition per se


Calabrese teaches the limitations of the claims other than the ratio of phenol to phosphite. However, no unobviousness is seen in this difference because Calabrese teaches that the amount of the stabilizers would vary depending on the material that needs to be stabilized,. The skill artisan having the teaching before him/her would recognize that the ratio of phenol:phosphite is a result effective variable that may be optimized.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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September 18, 2002